



January 27, 2003

Ms. Marlene H. Dortch
Federal Communications Commission
445 12th Street, S.W., Room 1-A836
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation in CC Docket No. 01-338

Dear Ms. Dortch:

Pursuant to Sections 1.1206(b)(2) of the Commission's Rules, this letter is to provide notice in the above-captioned docketed proceedings of an ex parte meeting on January 27, 2003, by John Windhausen and Jonathan Askin of the Association for Local Telecommunications Services (ALTS) with Simon Wilkie, Don Stockdale, and Daniel Shiman. ALTS stressed the continuing need for CLEC access to unbundled transport. Specifically, ALTS contended that the impairment analysis as applied to unbundled transport must be applied on a route-by-route basis and that proxy tests that consider broadly how much alternative transport is available over a broader geographic area or how many carriers are collocated in ILEC end offices cannot demonstrate whether the requesting carrier is impaired without unbundled access to ILEC transport on a particular route. ALTS expressed its concerns over the possibility of the Commission adopting a transport impairment test that relies on a "contestable market" proxy for the availability of true route-specific competitive alternatives to ILEC transport facilities. Such a proxy demonstrates nothing about the availability of transport alternatives throughout that geographic area. ALTS also urged that the Commission decline to adopt a capacity-based cap on the availability of UNE transport facilities. Determining the capacity level at which competitors can economically self-deploy transport is an intensely fact-specific and situation-specific inquiry, that can vary based on changing market-conditions, such as vacillating capital and equipment markets, geographic conditions, service mix, and customer base. Any fixed threshold adopted by the Commission could not be sufficiently narrow and responsive to these situation-specific and dynamic factors.

If you have any questions about this matter, please contact me at 202-969-2587.

Respectfully submitted,

/s/

Jonathan Askin

FROM THE DESK OF:

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